IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

Crl.MC.No. 1512 of 2007()

MC.39/2007 OF THE SUB DIVISIONAL MAGISTRATE, THALASSERY.

.....

PETITIONER: ACCUSED

---

1. K.SALIH, AGED 30 YEARS,
   S/O.SHAFI, PADINHAREYIL HOUSE, KEEZHUR AMSOM,
   KALANAD, KASARAGOD DISTRICT.

2. S.A.SHAFI, AGED 30 YEARS,
   S/O.ABDULLA, KALANAD AMSOM, WEST KALANAD.

3. A.ABDULLA, AGED 35 YEARS,
   S/O.AHAMMED, NAFEESA MANZIL, KEEZHUR KALANAD.

4. K.V.VINOD, AGED 33 YEARS,
   S/O.BHASKARAN, K.V.NILAYAM, CHEMBARIKKA,
   CHANDRAGIRI, KALANAD.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING THE S.H.O. MATTANNUR.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1512 OF 2007

Dated this the 6th day of June, 2007

ORDER

The petitioners are counter petitioners in a proceedings initiated under Sec.109 of the Cr.P.C. by the Sub Divisional Magistrate, Thalassery. The petitioners have come before this Court with a prayer that the proceedings against them may be quashed.

2. What are the reasons to justify the invocation of the powers under Sec.482 of the Cr.P.C.? Two grounds are raised. First of all, the learned counsel for the petitioners contends that they are not the residents within the jurisdiction of the Sub Divisional Magistrate, Thalassery, who has initiated the proceedings and, in these circumstances, the Sub Divisional Magistrate lacks the territorial jurisdiction to pass the order.

3. After discussions at the Bar, the learned counsel for the petitioners does not press that contention. It is evident

that the apprehended mischief falls within the jurisdiction of the Sub Divisional Magistrate, Thalassery and in these circumstances, the mere fact that the petitioners are not residents within the jurisdiction of the Magistrate cannot affect the jurisdiction of the Sub Divisional Magistrate.

4. Secondly, it is contended that the allegations are unacceptable and do not constitute sufficient ground to initiate the proceedings. I shall scrupulously avoid any expression of opinion on merits. The learned Public Prosecutor submits that the proceedings have already started and the principal witness has already been examined and is remaining in the box cross-examined in part. I am, in these circumstances, satisfied that no orders invoking the extraordinary inherent jurisdiction under Sec.482 of the Cr.P.C. need be passed in the matter.

5. This Crl.M.C. is, in these circumstances, dismissed. I may hasten to observe that the dismissal of this Crl.M.C. will not in any way fetter the rights of the petitioners to raise all relevant and appropriate contentions before the Sub Divisional Magistrate.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy// **P.S. To Judge**